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Attorney for Plaintiff

AUGUST IMAGE, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

AUGUST IMAGE, LLC,

Plaintiff,

v.

SHORT STORY, INC.,

Defendant.

Civil Action No. \_\_\_\_\_

**COMPLAINT**

Plaintiff August Image, LLC ("Plaintiff") sues defendant Short Story, Inc. ("Defendant"), and alleges as follows:

**THE PARTIES**

1. Plaintiff is a limited liability company organized and existing under

1 the laws of the State of New York with its principal place of business located in  
2 New York, NY.

3 2. Defendant is a corporation organized and existing under the laws of  
4 the State of California with its principal place of business located at 1401 21<sup>st</sup>  
5 Street, Suite R, Sacramento, CA 95811. Defendant's agent for service of process  
6 is Registered Agents Inc, 1401 21<sup>st</sup> Street, Suite R, Sacramento, CA 95811.  
7

8 **JURISDICTION AND VENUE**  
9

10 3. This Court has subject matter jurisdiction over this action pursuant to  
11 28 U.S.C. §§ 1331 and 1338(a).

12 4. This Court has personal jurisdiction over Defendant because it has  
13 maintained sufficient minimum contacts with this State such that the exercise of  
14 personal jurisdiction over it would not offend traditional notions of fair play and  
15 substantial justice.  
16

17 5. Venue properly lies in this district pursuant to 28 U.S.C. § 1400(a)  
18 because Defendant or its agents reside or may be found in this district. "The Ninth  
19 Circuit has interpreted Section 1400(a) to mean that venue is proper in any  
20 judicial district in which the defendant would be amenable to personal  
21 jurisdiction." Righthaven LLC v. Inform Techs., Inc., No. 2:11-CV-00053-KJD-  
22 LRL, 2011 U.S. Dist. LEXIS 119379, at \*8 (D. Nev. Oct. 14, 2011) (citing  
23  
24

1 Brayton Purcell LLP v. Recordon & Recordon, 606 F.3d 1124, 1128 (9th Cir.  
2 2010)).

## 3 FACTS

### 4 **I. Plaintiff's Business**

5  
6 6. From its offices in New York City and London, Plaintiff represents  
7 (all around the world) over 100 of some of the most creative and innovative  
8 contemporary photographers working today.

9 7. Plaintiff boasts a wide collection of portrait, lifestyle, beauty and  
10 fashion photography for editorial and commercial licensing. Some of Plaintiff's  
11 image collection and a list of the photographers it represents is available on its  
12 website (at <https://www.augustimage.com/>).  
13

14 8. Plaintiff sets itself apart from others because it is knowledgeable about  
15 its exclusive images and strives to provide a high level of customer satisfaction. In  
16 order to make its rights managed collection available to its clients, Plaintiff has spent  
17 years to secure the relationships, information and team to efficiently acquire the  
18 releases as necessary.  
19

### 20 **II. The Work at Issue in this Lawsuit**

21 9. Art Streiber is one of the many renowned photographers represented  
22 by Plaintiff.

23 10. Mr. Streiber, a Los Angeles based photographer, is a director  
24

1 specializing in reportage, portraiture, corporate, entertainment, and advertising  
2 projects. Mr. Streiber's editorial and entertainment clients include Vanity Fair,  
3 Entertainment Weekly, Wired, Fortune, ESPN, GQ, ABC, CBS, NBC, HBO,  
4 A&E, CNN, MCNBC, Paramount, Sony Pictures, DreamWorks, Warner Brothers  
5 Studios, Columbia-TriStar, and Universal Studios, to name a few. Over the past  
6 15 years, Mr. Streiber's photography has been selected for annual competitions of  
7 PDN, Communication Arts, and American Photography. His work can be viewed  
8 on his professional website (at <http://www.artstreiber.com/>).  
9

10  
11 11. In 2017, Mr. Streiber created a professional photograph of American  
12 actress and film producer Reese Witherspoon (titled "AU11097595") (the  
13 "Work"). A copy of the Work is displayed below:



1           12. The Work was registered by Mr. Streiber with the Register of  
2 Copyrights on October 21, 2019 and was assigned Registration No. VA 2-196-  
3 130. A true and correct copy of the Certificate of Registration pertaining to the  
4 Work is attached hereto as **Exhibit “A.”**

5  
6           13. Mr. Streiber is the owner of the Work and has remained the owner at  
7 all times material hereto.

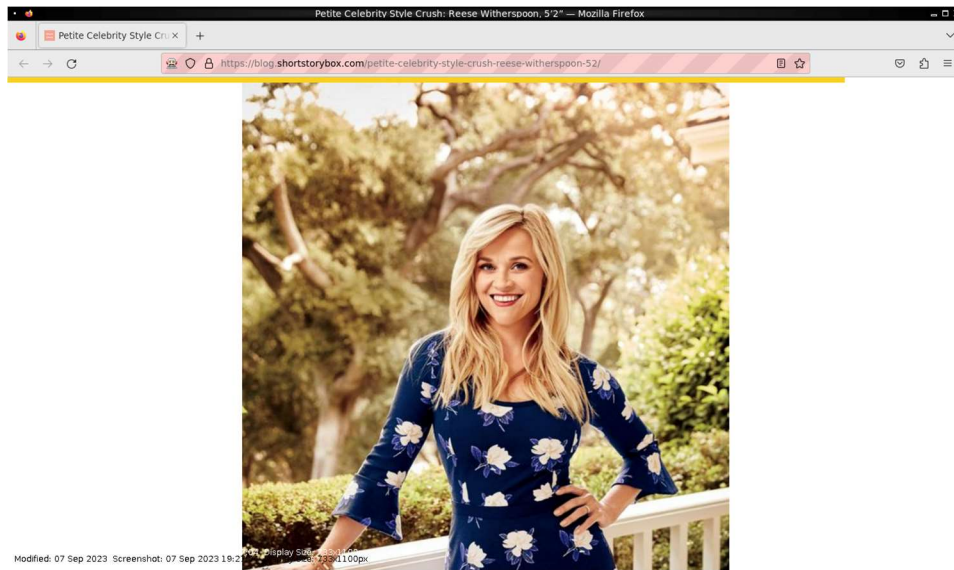
8           14. For all times relevant to this action, Plaintiff and the above-named  
9 photographer(s) were parties to one or more written agreements whereby such  
10 photographer(s) conveyed to Plaintiff certain exclusive rights in the Work,  
11 including but not limited to the exclusive right to reproduce the Work in copies  
12 and the exclusive right to distribute copies of the Work to the public by sale and/or  
13 licensing. Such written agreement(s) likewise convey the exclusive right to  
14 pursue any infringements of the Work, whether such infringements arose prior to  
15 execution of the written agreement(s) or thereafter. As such, Plaintiff is entitled  
16 to institute and maintain this action for copyright infringement. See 17 U.S.C. §  
17 501(b).  
18  
19

## 20 **II. Defendant’s Unlawful Activities**

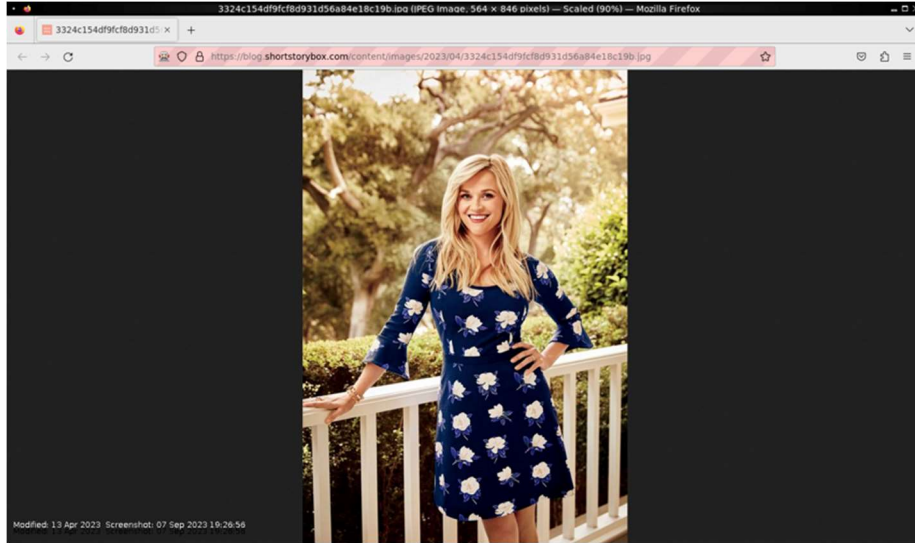
21           15. Defendant is a personalized styling service for petite women.  
22 Defendant focuses on providing a unique shopping experience designed  
23 specifically for 5’4” and under, ensuring the perfect fit for each customer.  
24

16. Defendant advertises/markets its business through its website (<https://my.shortstorybox.com/>), social media (e.g., <https://www.instagram.com/shortstorybox/>, <https://www.pinterest.com/shortstorybox/>, <https://www.facebook.com/shortstorybox>, and <https://www.youtube.com/@ShortStoryBox>), and other forms of advertising.

17. In April 2023 (after the above-referenced copyright registration of the Work), Defendant displayed and/or published the Work on its website, webpage, and/or social media (at <https://blog.shortstorybox.com/petite-celebrity-style-crush-reese-witherspoon-52/>):



(<https://blog.shortstorybox.com/content/images/2023/04/3324c154df9cf8d931d56a84e18c19b.jpg>):



18. A true and correct copy of screenshots of Defendant's website, webpage, and/or social media, displaying the copyrighted Work, is attached hereto as **Exhibit "B."**

19. Defendant is not and has never been licensed to use or display the Work. Defendant never contacted Plaintiff to seek permission to use the Work in connection with its website, webpage, social media - even though the Work that was copied is clearly professional stock photography that would put Defendant on notice that the Work was not intended for public use.

20. Defendant utilized the Work for commercial use.

21. Upon information and belief, Defendant located a copy of the Work on the internet and, rather than contact Plaintiff to secure a license, simply copied the Work for its own commercial use.

22. Through its ongoing diligent efforts to identify unauthorized use of its

1 photographs, Plaintiff discovered Defendant's unauthorized use/display of the  
2 Work on May 30, 2023. Following Plaintiff's discovery, Plaintiff notified  
3 Defendant in writing of such unauthorized use. To date, Plaintiff has been unable  
4 to negotiate a reasonable license for the past infringement of its Work.  
5

6 23. All conditions precedent to this action have been performed or have  
7 been waived.

8 **COUNT I – COPYRIGHT INFRINGEMENT**

9  
10 24. Plaintiff re-alleges and incorporates paragraphs 1 through 23 as set  
11 forth above.

12 25. Each photograph comprising the Work is an original work of  
13 authorship, embodying copyrightable subject matter, that is subject to the full  
14 protection of the United States copyright laws (17 U.S.C. § 101 *et seq.*).  
15

16 26. Mr. Streiber owns a valid copyright in the Work, having registered  
17 such photograph with the Register of Copyrights.

18 27. Plaintiff has standing to bring this lawsuit and assert the claim(s)  
19 herein as it has sufficient rights, title, and interest to such copyrights (as Plaintiff  
20 was conveyed certain exclusive rights to reproduce and distribute the Work by the  
21 subject photographer(s)).  
22  
23  
24



1           28. As a result of Plaintiff's reproduction, distribution, and public display  
2 of the Work, Defendant had access to the Work prior to its own reproduction,  
3 distribution, and public display of the Work on its website, webpage, and/or social  
4 media.

5  
6           29. Defendant reproduced, distributed, and publicly displayed the Work  
7 without authorization from Plaintiff.

8           30. By its actions, Defendant infringed and violated Plaintiff's exclusive  
9 rights in violation of the Copyright Act, 17 U.S.C. § 501. Defendant's  
10 infringement was either direct, vicarious, and/or contributory.

11  
12           31. Defendant's infringement was willful as it acted with actual  
13 knowledge or reckless disregard for whether its conduct infringed upon Plaintiff's  
14 copyright. Notably, Defendant itself utilizes a copyright disclaimer on its website  
15 ("SEQUEL: A SHORT STORY BLOG © 2024. ALL RIGHT RESERVED."),  
16 indicating that Defendant understands the importance of copyright  
17 protection/intellectual property rights and is actually representing that it owns  
18 each of the photographs published on its website. See, e.g., Bell v. ROI Prop. Grp.  
19 Mgmt., LLC, No. 1:18-cv-00043-TWP-DLP, 2018 U.S. Dist. LEXIS 127717, at  
20 \*3 (S.D. Ind. July 31, 2018) ("[T]he willfulness of ROI's infringement is  
21 evidenced by the fact that at the bottom of the webpage on which the Indianapolis  
22 photograph was unlawfully published appeared the following: 'Copyright ©  
23  
24

2017.’ By placing a copyright mark at the bottom of its webpage that contained Mr. Bell’s copyrighted Indianapolis Photograph, Mr. Bell asserts ROI willfully infringed his copyright by claiming that it owned the copyright to everything on the webpage.”); John Perez Graphics & Design, LLC v. Green Tree Inv. Grp., Inc., Civil Action No. 3:12-cv-4194-M, 2013 U.S. Dist. LEXIS 61928, at \*12-13 (N.D. Tex. May 1, 2013) (“Once on Defendant’s website, Defendant asserted ownership of Plaintiff’s Registered Work by including a copyright notice at the bottom of the page. Based on these allegations, the Court finds Plaintiff has sufficiently pled a willful violation....”). Defendant clearly understands that professional photography such as the Work is generally paid for and cannot simply be copied from the internet.

32. Plaintiff has been damaged as a direct and proximate result of Defendant’s infringement.

33. Plaintiff is entitled to recover its actual damages resulting from Defendant’s unauthorized use of the Work and, at Plaintiff’s election (pursuant to 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a disgorgement of Defendant’s profits from infringement of the Work, which amounts shall be proven at trial.

1           34. Alternatively, and at Plaintiff's election, Plaintiff is entitled to  
2 statutory damages pursuant to 17 U.S.C. § 504(c), in such amount as deemed  
3 proper by the Court.

4           35. Pursuant to 17 U.S.C. § 505, Plaintiff is further entitled to recover its  
5 costs and attorneys' fees as a result of Defendant's conduct.

6           36. Defendant's conduct has caused, and any continued infringing  
7 conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by  
8 the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502,  
9 Plaintiff is entitled to a permanent injunction prohibiting infringement of  
10 Plaintiff's exclusive rights under copyright law.

11           **WHEREFORE**, Plaintiff demands judgment against Defendant as  
12 follows:

- 13           a. A declaration that Defendant has infringed Plaintiff's copyrights in the  
14 Work;  
15           b. A declaration that such infringement is willful;  
16           c. An award of actual damages and disgorgement of profits as the Court deems  
17 proper or, at Plaintiff's election, an award of statutory damages for willful  
18 infringement up to \$150,000.00 for each photograph comprising the Work;  
19  
20  
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- 1 d. Awarding Plaintiff its costs and reasonable attorneys' fees pursuant to 17  
2 U.S.C. § 505;  
3  
4 e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing  
5 amounts;  
6  
7 f. Permanently enjoining Defendant, its employees, agents, officers, directors,  
8 attorneys, successors, affiliates, subsidiaries and assigns, and all those in  
9 active concert and participation with Defendant, from directly or indirectly  
10 infringing Plaintiff's copyrights or continuing to display, transfer, advertise,  
11 reproduce, or otherwise market any works derived or copied from the Work  
12 or to participate or assist in any such activity; and  
13  
14 g. For such other relief as the Court deems just and proper.

15 DATED: July 12, 2024.

**COPYCAT LEGAL PLLC**

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17  
18 By: /s/ Lauren M. Hausman  
19 Lauren M. Hausman, Esq.  
20 Attorney for Plaintiff  
21 August Image, LLC  
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23  
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